

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**  
**MAY 01 2019**  
Clerk, U.S. Courts  
District Of Montana  
Missoula Division

WAYNE DALE KELLBERG,

Plaintiff,

vs.

SUPERVISOR RICKY  
SHELBOURNE,

Defendant.

CV 19-37-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations on February 28, 2019, recommending the dismissal of Plaintiff's case under the doctrine of res judicata. (Doc. 3 at 6-7.) Plaintiff did not object to the Findings and Recommendations and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS ORDERED that Judge Lynch's Order and Findings and Recommendations (Doc. 3) are ADOPTED IN FULL and Plaintiff's complaint is DISMISSED without leave to amend.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter a judgment of dismissal and close this case.

DATED this 1<sup>st</sup> day of May, 2019.

  
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Dana L. Christensen, Chief Judge  
United States District Court